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RAFFERTY FUQUA

MAGISTRATE WARRANT
APPLICATION 16MAGC-03956

Linda E. Haque, CCR-B-996
Official Court Reporter
185 Central Avenue, Room T-5905
Atlanta, Georgia 30303

P R O C E E D I N G S

Friday, December 2, 2016

THE COURT: All right. On the Rafferty Fuqua case. Who is here on that?

MR. FUQUA: Here.

APPLICANT ROBINSON: Here.

THE COURT: Is somebody here from -- are you from OPS, sir?

MR. FUQUA: I'm Rafferty Fuqua, sir.

THE COURT: Is somebody here from OPS?

PERSON IN AUDIENCE: Yes, sir.

THE COURT: We were waiting to see about your report. Do you all have a report?

PERSON IN AUDIENCE: We don't have a completed investigation, if that's your question, we don't have a completed --

THE COURT: Have you made progress?

PERSON IN AUDIENCE: We have, Your Honor.

The case was so large that we had to break it up into two pieces. The first part is completed. The second phase is still open.

THE COURT: What was the first phase that was completed?

PERSON IN AUDIENCE: The first phase is when he initially entered the jail, his conduct at that time was

1 met with some -- his conduct was adjusted at that time.
2 That was the first part of the investigation. He came in.
3 He was a little hostile, and we dealt with that part of
4 it.

5 THE COURT: What is the -- at some point
6 thoughts were that the Feds would be investigating.

7 PERSON IN AUDIENCE: I'm not sure what that is,
8 Your Honor.

9 THE COURT: Wait a minute. And so what's the
10 second part of the investigation?

11 PERSON IN AUDIENCE: It's his encounter with
12 the people he is accusing.

13 THE COURT: Yes, sir, what do you want to say?

14 APPLICANT ROBINSON: He identified, the one
15 with the black gun, he identified himself as Fuqua. The
16 one with the red on, he was making jokes like that,
17 saying say Fuqua. Him right here with the red on, he
18 was the light skinned. These are the two right here.
19 The other guy that was here the last time, you had on
20 Fuqua's name tag, the same name tag. You. Him right
21 there in the middle, the one with the black. That's the
22 one that kicked me in my face. That's the one that
23 tased me. You think I wouldn't get to the bottom of it,
24 for real.

25 THE COURT: Wait a minute.

1 APPLICANT ROBINSON: Him, too, that's the one,
2 see the one on the end, that's the one that said, hey,
3 say Fuqua. He was making a joke of it when my teeth hit
4 the floor. The one in the red, him there.

5 THE COURT: Which person are you talking about,
6 the gentleman sitting down?

7 APPLICANT ROBINSON: Stand up. Say Fuqua.
8 You know who I'm talking to. Stand up, sir. You, stand
9 up, sir. Him right there.

10 THE COURT: And what is your name, sir? Please
11 stand up. Is this the gentlemen you're talking about?

12 APPLICANT ROBINSON: Yes, sir. That's the one
13 that was laughing and saying, say Fuqua, when my teeth
14 got kicked out.

15 This is the one right here said Fuqua F-u-q-u-a,
16 and the other guy that was here the last time that was
17 the aggressor. They had on his name, they had on his
18 uniform. What is your name? Is your name Fuqua?

19 THE COURT: What is your name, sir?

20 OFFICER JONES: My name is officer Jones, sir.
21 Our names are stitched on our shirts.

22 MR. JONES: Your Honor, I'm Derek Jones. I'm
23 here on behalf of Frank Jones.

24 Your Honor, he is not a party in this case. We
25 are here observing. This gentleman is clearly deranged,

1 and we are concerned about he's going to make more
2 frivolous accusations against Fulton County law
3 enforcement officers.

4 He has been staring at us the whole time we have
5 been sitting here, Judge.

6 APPLICANT ROBINSON: That guy over there --

7 THE COURT: Just hold on. Yes, sir. Go ahead.

8 MR. JONES: Since I have been in here he has
9 been staring at us almost repeatedly. He will turn away
10 for a bit. He will come back and stare at us again. He
11 is clearly deranged, Judge, and I'm afraid that there's
12 going to be another frivolous action against the Fulton
13 County deputy sheriffs.

14 THE COURT: Who all are you investigating, sir?

15 PERSON IN AUDIENCE: Well, the current
16 investigation, Your Honor, is an open investigation and
17 there's also an administrative investigation that we are
18 not allowed to talk about those things until the matter
19 is closed.

20 THE COURT: All right. So have you been in
21 contact with the Professional Standards Division,
22 counselor?

23 MR. JONES: Your Honor, as I understand it,
24 they will conduct their own investigation. That is
25 something that is and must remain totally apart from any

1 criminal investigation, which there needs to be a
2 Chinese fire wall between those two investigations. Any
3 compromise -- their investigations, for them to be
4 involved in this criminal case, it compromises this
5 criminal case if they are involved in this case.

6 THE COURT: Now, the criminal case only
7 involves deputy Fuqua; is that correct?

8 MR. JONES: Yes, that's correct, Your Honor,
9 who I do not represent. And that's why I'm here up
10 until now as merely an observer status. But when this
11 gentleman started pointing at my client and the Court
12 started asking names, I felt it was my duty to get
13 involved.

14 THE COURT: All right. Are you making
15 accusations against these two gentlemen that are
16 standing up?

17 APPLICANT ROBINSON: No, sir, it's not an
18 accusation. Out of all three of the officers, the one
19 said say Fuqua. I asked that guy what his name was. He
20 didn't say anything. I asked him with the big lips, and
21 he didn't say anything. Right there. That guy right
22 there. That's not no accusation, partner. They caught
23 you dragging me by my shackles. You're the one that was
24 dragging me by my shackles. You're the one that had on
25 Fuqua, and you were dragging me by my shackles. Look on

1 the tape. The tape speaks a thousand words. If this is
2 the guy that dragged me by my shackles, he said his name
3 was Fuqua, and it was on his name tag, Fuqua. I can
4 read real good. The one to his left, he said spell it.
5 Say Fuqua. This is what -- them two.

6 THE COURT: Is there any surveillance photos of
7 these incidents?

8 PERSON IN AUDIENCE: Your Honor, we are
9 conducting an administrative investigation, and because
10 the investigation is still open we are not allowed to
11 speak on those investigations at all. And Mr. Jones, as
12 Mr. Jones indicated, we would be barred from
13 participating in a criminal proceeding because our guys
14 that work for us, they're forced to give statements, and
15 they're forced to be honest, and forced to tell the
16 truth. That separates them from a criminal proceeding.
17 So anything they would have given us, anything we
18 discover as a result of our investigation, wouldn't be
19 something that will be participating in in a criminal
20 proceeding. So they are separate.

21 Now at the conclusion of our investigation it
22 would be subject to open records, and then anyone could
23 subpoena them or do whatever they want to do with them.

24 THE COURT: Well, I understand your desire for
25 it to be kept separate but I'm faced with a he said he

1 said, and the reason I wanted to be privy to some of
2 this information would assist me in having a broader
3 picture of what may have happened.

4 And, you know, if, in fact, he had his teeth
5 knocked out, and he was treated for his teeth being
6 knocked out, and medical concerns, then that might arise
7 to the level of probable cause. And the reason I'm
8 being so cautious is I realize that if I issue a warrant
9 against the deputy, I imagine he has to be suspended; is
10 that correct?

11 PERSON IN AUDIENCE: Based on what the charges
12 are.

13 THE COURT: And so I was hopeful that we could
14 all be -- have information with regard to the internal
15 investigation because basically all I'm going to have
16 here is what the defendant and the alleged victim
17 testifying, and that's it. I would assume that your
18 clients are not going to say a word because they don't
19 want to possibly incriminate themselves; is that correct?

20 MR. JONES: Well, Your Honor, I only represent
21 one of the --

22 THE COURT: Well, I would assume that he's not
23 going to say anything.

24 MR. JONES: I'm not sure at this point, Your
25 Honor. I would have to consult with him on that. We

1 are here on an observer status, at least I am.

2 Your Honor, and again, I am not privy to any
3 Internal Affairs report myself.

4 THE COURT: Well, what I think we ought to do
5 is is let the infernal affairs report be exhaustively
6 completed, and then give it to the alleged victim under
7 the Open Records Act, and let's see what it says,
8 because if his teeth were out and he's treated for his
9 teeth being knocked out, and treated for other injuries
10 that may rise to the level of probable cause and allow
11 the warrant to be issued.

12 I mean, I don't know what happened, and I assume
13 that you all are -- and I know you can't talk about your
14 investigation -- I assume that you all are talking to
15 numerous witnesses, and people that were on duty, and
16 medical staff, and things like that at the jail; is that
17 correct?

18 PERSON IN AUDIENCE: That is correct, and I
19 think you're right on it, Your Honor, and I think his
20 application may be premature and probably should have
21 been filed after we finished. But we are here so what --

22 THE COURT: How long do you think it will be
23 before you can disclose?

24 APPLICANT ROBINSON: It has been 6-months.

25 PERSON IN AUDIENCE: I'm not sure. It will be

1 soon.

2 APPLICANT ROBINSON: They said that five
3 months ago -- four months ago, they said the same thing.

4 THE COURT: But I'm trying to be fair to
5 everybody. I have told you that if your allegations are
6 true it's very serious, and needs to be addressed by the
7 justice system, and if your allegations are true then
8 it's something that cannot be tolerated. I think that
9 everybody would benefit from an exhaustive investigation
10 that can be made public. Yes, sir.

11 A DEPUTY SHERIFF: Judge, permission to
12 approach with a document that maybe you may want to look
13 at?

14 THE COURT: Okay.

15 (Short pause.)

16 THE COURT: All right. This is a letter and I
17 will read it. It's dated 8-17-16. About William
18 Robinson signed by Betty Harper, dental assistant.

19 I, Betty Harper, giving a true statement on May
20 3, 2016, Mr. Robinson Williams was brought to the
21 medical floor at 4:10 p.m. It was stated to me, being
22 that I was the dental assistant for that day, that Mr.
23 Robinson had been involved in an altercation with
24 another inmate in the holding tank.

25 The sergeant came over about 4:15 p.m. with

1 number eight and number nine in his glove identifying
2 that Mr. Robinson had his teeth knocked out. Deputy R.
3 Fuqua was never seen in the designated area. Okay.
4 That's something I guess that your group will, in
5 internal affairs, will look into; is that correct, sir?

6 PERSON IN AUDIENCE: I'm familiar with that.

7 THE COURT: All right. So do you think we can
8 have a conclusion of the investigation, and make the
9 report public pursuant to any open records request by
10 the end of January?

11 PERSON IN AUDIENCE: Yes, sir.

12 THE COURT: All right. So what I'm going to
13 tell you -- yes, sir.

14 APPLICANT ROBINSON: Your Honor, they are
15 submitting evidence. I can't submit evidence. All I
16 can do is point at the person that -- and the persons
17 that did this to me. You say I'm staring at them. I'm
18 catching flashbacks to when that man's foot was in my
19 face.

20 MR. JONES: You were staring at me, and I
21 wasn't in the jail that day.

22 THE COURT: All right. All right.

23 APPLICANT ROBINSON: Hold on. Your Honor,
24 second, ever since this is going on gunshots have been
25 going on around my house. All right. I stay right down

1 the street from a police station. I feel there's a level
2 of intimidation going on.

3 THE COURT: All right. Let's go to the last
4 Thursday in January. Does anybody know what that date
5 is? Let's do 10:00 a.m. on the 26th of January,
6 10:00 a.m., and I will ask that you make your report
7 public in open court if the case is closed.
8 January 26th, everybody write this down. That's
9 Thursday, January 26th. We will have a hearing that day
10 at 10:00 a.m., courtroom 5-E. All right. You all have
11 a good day. Thank you.

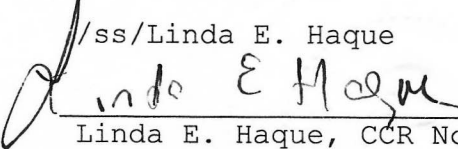
12 (Short pause.)

13 C E R T I F I C A T E
14

15 STATE OF GEORGIA:
16 COUNTY OF FULTON:

17 I do hereby certify that the foregoing is
18 a true, complete, and correct transcript of the proceedings
19 taken down by me in the case aforesaid.
20

21 This, the 17th day of March, 2017.

22 /s/Linda E. Haque
23 

24 Linda E. Haque, CCR No. B-996
25 RPR, Certified Court Reporter